

Encroachment Appeal - 114 Ossington Avenue

Date: March 18, 2025

To: Toronto and East York Community Council

From: Director, Permits and Enforcement, Transportation Services

Wards: 10, Spadina-Fort York

SUMMARY

This staff report is about a matter that Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is for Toronto and East York Community Council to consider an appeal from the property owner of 114 Ossington Avenue regarding their encroachment application. The encroachment consists of an enclosed patio structure, stairs, and guide rails measuring an area of 46.7 square meters within the Argyle Street boulevard, which is in contravention of City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of, specifically, permanent structures are not permitted within 70 meters of an intersection.

Transportation Services is seeking authority from Toronto and East York Community Council to permit the construction and maintenance of an enclosed patio structure and seating within the public right-of-way at 114 Ossington Avenue, Argyle Street flankage.

Although the enclosed patio structure, benches, stairs, and guide rail are in contravention of the requirements under Code Chapter 743, staff is of the opinion that it will not have a negative impact on the public right-of-way for pedestrians or for traffic on the affected streets. Therefore, Transportation Services is requesting authority to enter into an encroachment agreement with the property owner, subject to conditions.

RECOMMENDATIONS

The Director, Permits and Enforcement, Transportation Services recommends that:

1. Toronto and East York Community Council authorize the General Manager of Transportation Services to enter into an encroachment agreement with property owner of 114 Ossington Avenue, to permit the construction and maintenance of the permanent

all seasoned enclosed patio structure, benches, stairs, guide rails, subject, but not limited to, the following conditions:

- a. Indemnify the City from and against all actions, suits, claims or demands and from all loss, costs, damages, and expenses that may result from such permission granted;
- b. Maintain the enclosed patio structure and other encroachments at their own expense in good repair and a condition satisfactory to the General Manager of Transportation Services, and will not make any additions or modifications to the encroachment beyond what is allowed under the terms of the Agreement;
- c. Accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City;
- d. Remove the encroachment upon receiving written notice to do so; and
- e. Obtain clearances and/or signoffs from all affected utilities and satisfy all conditions imposed by any utilities that may be affected by the installation and maintenance of the encroachments.
- f. The property owner shall pay (i) an annual licence fee in the amount of \$4,800.00 as estimated by Real Estate Services, and (ii) any applicable real property taxes eligible. The licence fee shall increase annually by an amount equivalent to the percentage increase in the Consumer Price Index (all items – Toronto) and shall further be recalculated every five (5) years.
- g. The property owner will enter into an encroachment agreement with the City of Toronto, at the applicant's expense, and assume all liability and damages related to the encroachments.
- h. The property owner and/or occupant must obtain all Municipal Licensing and Standards and Toronto Building permits and/or licences prior to commercial use of the encroachment.

FINANCIAL IMPACT

If Toronto and East York Community Council adopts the staff recommendations, the Owner will be responsible for the costs for the ongoing maintenance, repair and operation of the enclosed patio structure, benches, stairs and guide rail.

The Owner shall pay (i) an annual licence fee in the amount as established by Real Estate Services, and (ii) any applicable real property taxes eligible. The licence fee shall increase annually by an amount equivalent to the percentage increase in the Consumer Price Index (all items – Toronto), and shall further be recalculated every five (5) years based on the applicable fee of the City for private areaway encroachments, as prescribed under Chapter 441, Fees and Charges, Appendix C – Schedule 2, Transportation Services, of the City's Municipal Code, as amended or replaced.

DECISION HISTORY

This report addresses a new initiative.

COMMENTS

An encroachment application was received on September 11, 2024, from agent of the owners of 114 Ossington Avenue requesting permission to construct and maintain an enclosed patio made of extruded aluminium vinyl mesh, glass, block plexiglass, waterproof cotton canvas, benches, stairs, and guide rails within the public right-of-way on Argyle Street flanking the subject premises.

Transportation Services has reviewed the application and the property located at 114 Ossington Avenue. The encroachments contravene Municipal Code Chapter 743. The contravention includes the following:

- The enclosed patio structure extends out from the exterior building wall 4.1m in total, which encroaches 3.31m into the public right-of-way and takes up 46.7 square meters on Argyle Street, which is not a permitted encroachment within the Municipal Code Chapter 743.
- The enclosed patio structure exceeds 0.9m in height which is not a permitted encroachment within the Municipal Code Chapter 743.
- The proposed enclosed patio structure reaches a height of 3.1 metres and is 10 metres away from the intersection of two or more streets, which contravenes the Municipal Code Chapter 743 article 743-34A.(2)(a)[1].
- The enclosed patio will reach a height of 3.1 metres and is less than 3 metres away from a sidewalk, which contravenes the Municipal Code Chapter 743 article 743-34A.(2)(a)[2].

The applicant was notified that the enclosed permanent patio structure is not eligible for an encroachment agreement. An appeal was subsequently received from the property owner.

It should be noted that staff conducted a site visit and determined that although the enclosed marketing structure contravenes Municipal Code Chapter 743, it does not constitute a sightline impediment to vehicular traffic or pedestrians.

The applicant has submitted all relevant public utility clearances providing the appropriate setbacks from existing municipal infrastructure. The proposed construction of the enclosed patio structure and proposed encroachments were able to maintain a setback of 0.50 metres from the rear edge of the sidewalk.

A ground floor plan, cross section views of the encroachment, and digital photos of the existing location for the proposed encroachment are included in Attachments 1-4

Transportation Services has reviewed the application and staff is of the opinion that the enclosed patio and benches will not have a negative impact on the public right-of-way for pedestrians, for traffic on the affected streets, or the City's ability to properly maintain the right-of-way. Therefore, Transportation Services recommends that the City enter into an encroachment agreement with the property owner to allow the construction and maintenance of the enclosed patio to encroach within the City's right-of-way.

The Ward Councillor has been advised of the recommendations in this report.

CONTACT

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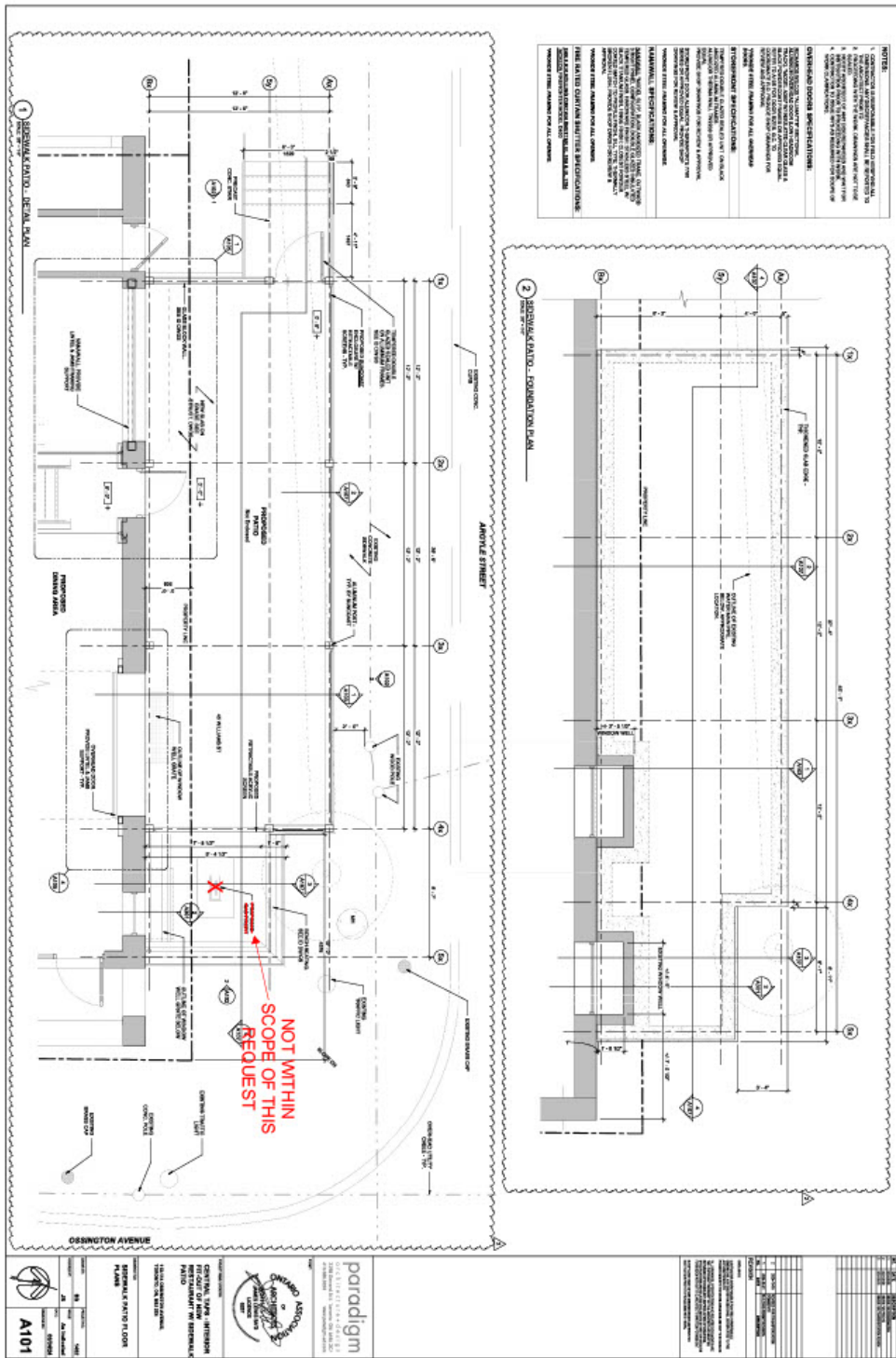
SIGNATURE

Antonia Markos
Director, Permits and Enforcement, Transportation Services

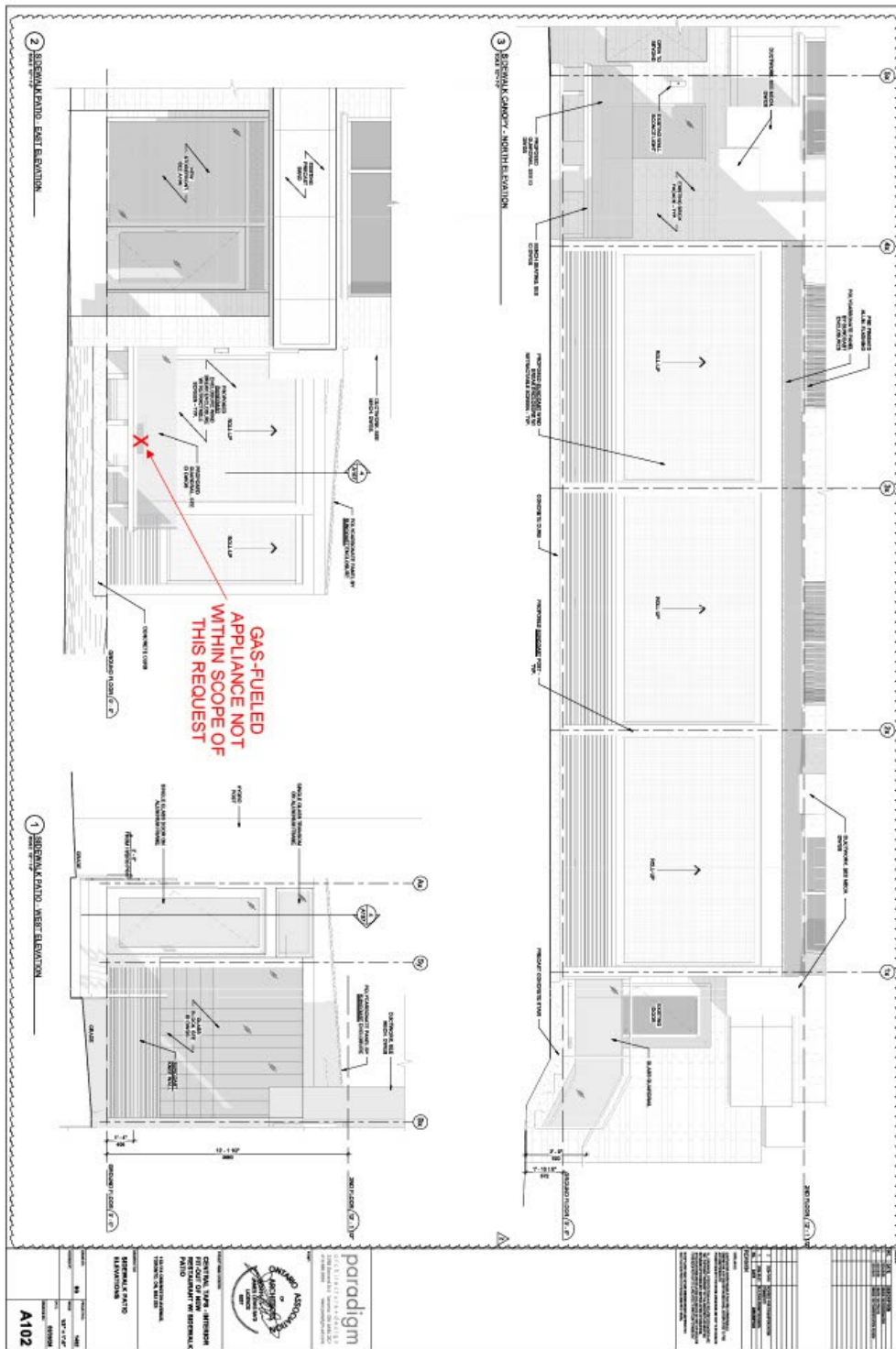
ATTACHMENTS

Attachment 1: Sidewalk Patio Floor Plan - 114 Ossington Avenue
Attachment 2: Cross Section Plan of proposed encroachment - 114 Ossington Avenue
Attachment 3: Proposed encroachment location within the boulevard, view from Argyle Street - 114 Ossington Avenue
Attachment 4: Photo of Proposed Installation Area, view from Ossington Avenue - 114 Ossington Avenue

Attachment 1: Sidewalk Patio Floor Plan - 114 Ossington Avenue



Attachment 2: Cross Section Plan - 114 Ossington Avenue



Attachment 3: Proposed encroachment location within the boulevard, view from Argyle Street - 114 Ossington Avenue



Attachment 4: Photo of Proposed installation area, view from Ossington Avenue - 114 Ossington Avenue

